

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CURTIS M. COLLINS,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 05-739-SLR
v.	)	
	)	
WARDEN RICK KEARNEY, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS RICK KEARNEY, JAMES CHANDLER, AND  
BRADLEY BEREZANSKY’S MOTION FOR LEAVE TO DEPOSE PLAINTIFF**

COMES NOW, the Defendants Rick Kearney, James Chandler, and Bradley Berezansky (“Defendants Kearney, Chandler and Berezansky”),<sup>1</sup> by and through their undersigned counsel, and hereby move this Honorable Court (the “Motion”) to enter an order, substantially in the form attached hereto, granting Defendants Kearney, Chandler and Berezansky leave to depose Plaintiff Curtis M. Collins (“Collins”). In support of the Motion, Defendants Kearney, Chandler and Berezansky state as follows:

1. Plaintiff, Collins is an inmate incarcerated at the Delaware Correctional Center in Smyrna, Delaware.
2. Counsel for Defendants Kearney, Chandler and Berezansky wishes to depose Collins as part of discovery in this case.
3. The scheduling order entered in this matter set the discovery deadline for August 25, 2006 (D.I. 19).

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<sup>1</sup> Defendants C/O Milligan, C/O Daisey and C/O Irvin Johnson have been named as defendants in this action. It appears from the docket, however, that these defendants have not been served. Therefore these defendants are not a party to this Motion.

4. Superior Court Civil Rule 30(a) requires leave of the Court to depose an incarcerated individual.

5. A form of order is attached to this Motion that grants Defendants Kearney, Chandler and Berezansky's counsel the right to depose Collins.

WHEREFORE, Defendants Kearney, Chandler and Berezansky respectfully request that this Honorable Court enter an order, substantially in the form attached hereto, granting their Motion for Leave to Depose Plaintiff Curtis M. Collins.

**DEPARTMENT OF JUSTICE  
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)  
Deputy Attorney General  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 577-8400

Attorney for Defendants Rick Kearney,  
James Chandler, and Bradley  
Berezansky

Dated: July 18, 2006

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CURTIS M. COLLINS,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 05-739-SLR
v.	)	
	)	
WARDEN RICK KEARNEY, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Upon Defendants Rick Kearney, James Chandler, and Bradley Berezansky's Motion For Leave To Depose Plaintiff (the "Motion"); and it appearing that good and sufficient notice of the Motion has been given; and after due deliberation thereon:

**IT IS HEREBY ORDERED** as follows:

1. The Motion is **GRANTED**.
2. Defendants are granted leave to depose the Plaintiff in this matter.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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The Honorable Sue L. Robinson  
United States District Court Judge

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FOR THE DISTRICT OF DELAWARE**

CURTIS M. COLLINS,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 05-739-SLR
v.	)	
	)	
WARDEN RICK KEARNEY, et al.,	)	
	)	
Defendants.	)	

**7.1.1 CERTIFICATE OF COUNSEL**

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District Court of Delaware, that she is, as a practical matter, unable to discuss the subject of this Motion with the Plaintiff because the Plaintiff is an incarcerated inmate in a prison. Defense counsel assumes that the Plaintiff opposes this Motion.

**DEPARTMENT OF JUSTICE  
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)  
Deputy Attorney General  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 577-8400

Attorney for Defendants Rick Kearney,  
James Chandler, and Bradley  
Berezansky

Dated: July 18, 2006

**CERTIFICATE OF SERVICE**

I, Erika Y. Tross, Esq., hereby certify that on July 18, 2006, I caused a true and correct copy of the attached *Defendants Rick Kearney, James Chandler, and Bradley Berezansky's Motion For Leave To Depose Plaintiff* to be served on the following individual in the form and manner indicated:

**NAME AND ADDRESS OF RECIPIENT:**

Inmate Curtis M. Collins  
SBI #00314128  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**MANNER OF DELIVERY:**

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross  
Erika Y. Tross (#4506)  
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